

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

9 WARD FRANCIS WEAVER,) Case No. 1:02-cv-05583 -AWI
10 Petitioner,) DEATH PENALTY CASE
11 vs.)
12 Vincent Cullen, as Acting Warden of) CASE MANAGEMENT ORDER
13 San Quentin State Prison,*) ESTABLISHING POST-EXHAUSTION
14 Respondent.) SCHEDULE FOR PHASE II

15 This matter is before the Court on the February 8, 2010 request from Respondent Vincent Cullen,
16 as acting Warden of San Quentin State Prison (the “Warden”), for an order authorizing a 30-day
17 extension within which to file his answer to the 441-page Amended Petition of Petitioner Ward Francis
18 Weaver (“Weaver”). The Warden’s counsel avers that the press of work on other cases has prevented
19 him from completing the answer. Counsel also avers that CJA appointed counsel for Weaver does not
20 object to the 30-day extension.

21 || GOOD CAUSE APPEARING THEREFOR,

22 1. The Warden shall file his answer to the Amended Petition, without points and authorities,
23 consistent with Rule 5 of the Rules Governing § 2254 Cases, no later than March 15, 2010. The
24 answer shall raise all substantive and procedural affirmative defenses the Warden intends to
25 pursue, including procedural default and *Teague*-bar.

26 2. Within 30 days from the filing of the Warden's answer, the parties shall meet and confer to
27 discuss their respective positions about the exhaustion status and timeliness (under 28 U.S.C.

*Vincent Cullen is substituted for his predecessor Robert K. Wong, as Acting Warden of San Quentin State Prison
02dp5583OGrantRespEOT4Ans.Wea.wpd 1 pursuant to Federal Rule of Civil Procedure 25(d).

1 § 2244(d)(1)) of the Amended Petition. The parties shall file a joint statement setting forth their
2 respective positions concerning exhaustion and timeliness no later than April 30, 2010.
3 The matter thereafter will be taken under submission to resolve the parties' dispute (if any). If
4 the parties agree on exhaustion and timeliness, the Court will order further proceedings to bring
5 culmination to Phase II and move the matter into Phase III.

6 IT IS SO ORDERED.

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8 DATE: February 11, 2010

/s/ Anthony W. Ishii
Anthony W. Ishii
United States District Judge

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